

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

A.M., et al.,

Plaintiffs,

v.

Case No. 12-C-0943

**MEQUON-THIENSVILLE SCHOOL
DISTRICT, et al.,**

Defendants.

DECISION AND ORDER

The plaintiffs have filed a motion to compel discovery from defendants Mequon-Theinsville School District, Dr. Desmond Means, Brett Bowers, and Homestead High School (the “Education Defendants”) pursuant to Federal Rule of Civil Procedure 37 and Civil Local Rule 7(h). The plaintiffs contend that the Education Defendants have failed to produce a complete set of the school disciplinary records of the two other defendants in this case, Brent Anderson and Deangelo Dantzler. The basis for the motion is that during a recent deposition of a witness, the plaintiffs learned that the Education Defendants may have additional disciplinary information that they have not disclosed to the plaintiffs.

The plaintiffs’ motion does not comply with Civil Local Rule 37, which provides:

All motions to compel disclosure or discovery pursuant to Fed. R. Civ. P. 26 through 37 must be accompanied by a written certification by the movant that, after the movant in good faith has conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action, the parties are unable to reach an accord. The statement must recite the date and time of the conference or conferences and the names of all parties participating in the conference or conferences.

The plaintiffs' motion is not accompanied by the required certification. Although the plaintiffs' lawyer states in the motion that she conferred with the defendants "during depositions," Am. Mot. to Compel at 2, she does not identify the date and time of the conference and the names of all parties participating in the conference. Moreover, the plaintiffs' lawyer does not state that the purpose of the conference was to attempt to obtain the discovery without court action and that the parties were unable to reach an accord. Rather, she states only that she conferred with the defendants "to find out whether the information was provided completely." Id.

In their response to the plaintiffs' motion, the Education Defendants state that, after receiving the motion to compel, they searched their records in an attempt to locate any information that they had not previously disclosed to the plaintiffs. They state that although they have no additional information of the type identified by the witness during his deposition, they did find some other potentially relevant information and have provided that information to the plaintiffs. In light of this, it appears that the plaintiffs' concerns have been resolved. However, even if they have not been, the proper course is to deny the motion to compel on the ground that the plaintiffs have failed to meet and confer. Should the plaintiffs believe that the defendants have additional information that they are withholding, they must discuss the matter with the defendants in good faith before seeking relief from the court.

Accordingly, **IT IS ORDERED** that the plaintiffs' motion to compel and amended motion to compel (ECF Nos. 109 and 112) are **DENIED**.

Dated at Milwaukee, Wisconsin, this 28th day of April, 2015.

s/ Lynn Adelman

LYNN ADELMAN
District Judge